

APPEAL BY Mr Tony Rostron

Tottington Manor Farm, Turton Road, Bury

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Appendix 4 – Hibbitt v SSCLG [2016] EWHC 2853 (Admin)

1 Appeal References

- 1.1 Planning Inspectorate reference: APP/T4210/W/22/3311835
- 1.2 Local Authority reference: 68245.

2 The Appeal Site and its Location

- 2.1 The building is rectangular in planform with a mono-pitched roof oriented north west to south east approximately 10 m x 3.8 m with a roof height of 3.4 m. It is of a timber frame construction externally clad with corrugated fibre cement panels. The roof is constructed from the same materials. The building is sited approximately 3 metres parallel from the back of the highway on the north eastern side of Turton Road. The site is accessed via a gated gap in the hedgerow along Turton Road adjacent to the south east elevation of the building.
- 2.2 The building has recently had internal steel erected, a new concrete slab and a new roller shutter door to the south west elevation adjacent to the site entrance as evidenced by the site visit photographs can be seen to be new and clean and also photographic evidence submitted by the objector dated October 2021 showing steel being hoisted into place.

3 Description of the Proposal

- 3.1 Operational development would comprise of additional door and window openings and the habitable rooms created would have adequate natural light. The submitted plans indicate that the existing roof is to remain. Internal insulation would be bonded to the external panels and internally faced with smooth steel. The

proposed external finish would be externally faced with plastic coated steel panels. A small curtilage is indicated which would not be more than the area of the building itself that includes access to it.

4 Relevant Planning History

- 4.1 There are no previous applications that are relevant to the appeal.

5 Relevant Policies, Plans and Strategies

- 5.1 With regard to the application for prior approval that is subject of this appeal, the decision to refuse prior approval was made in accordance with:

The National Planning Policy Framework where relevant;
Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.
The National Planning Policy Guidance.

6 The Council's Case

6.1 See the officer report at Appendix 1.

7 Response to the Appellant's Statement of Case

- 7.1 The appellants Statement of Case does not have headed sections or paragraph numbers. As such reference will be given to the relevant page number of the Statement of case.
- 7.2 Over pages 2, 3, 4 and 5 of the appellants Statement of Case it is suggested the Council is stating that the extension to the appeal building has been carried out under Class B(a) of Part 6 of the General Permitted Development Order (GPDO). This is not correct. The officer report states the extension to the appeal building constitutes what would have been development under Class B(a) to Part 6 of the GPDO and that no such prior approval that would have been required has been applied for or granted and as such that work is unlawful.
- 7.3 The appellant avers the internal steel is not recent and has only been installed in conjunction with the new roller shutter door. The Councils' site visit photos at appendix 2 will show the extent and scale of the steel would be more than would be required for the installation of the roller shutter.
- 7.4 It is not relevant that the internal steel does not constitute development within the meaning of Section 55 of the Town and Country Planning Act but that the installation of the steel has made the building structurally capable of conversion and structurally capable of being able to function as a dwellinghouse (the test laid out in the case *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin) see appendix 4, before prior approval under Class Q to Part 3 of the GPDO has been applied for, whereas beforehand the building would not have capable of functioning as a dwellinghouse without the structural upgrade.

Appendix 1 – Officer Report

Appendix 2 – Council site visit photographs

Appendix 3 – Objectors photographs

Appendix 4 – Hibbitt v SSCLG [2016] EWHC 2853 (Admin)



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